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15 *No Fee Required - Gov't Code § 6103*

16 Attorneys for Defendant City of Los Angeles, including its component
parts erroneously named as Defendants Los Angeles City Council; Los
17 Angeles Housing Department; and Los Angeles Department of
Transportation
18

19 SUPERIOR COURT OF THE STATE OF CALIFORNIA

20 FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT

21 LA FORWARD INSTITUTE, a non-profit
organization; SYLVIA AROTH, an individual;
22 KATHLEEN L. COATES, an individual; and
GARY WILLIAMS, an individual,

23 Plaintiffs,

24 vs.

25 CITY OF LOS ANGELES; LOS ANGELES CITY
COUNCIL; LOS ANGELES HOUSING
26 DEPARTMENT; LOS ANGELES
DEPARTMENT OF TRANSPORTATION; and
27 DOES 1 through 100, inclusive,

28 Defendants.

Case No: 24STCV17156

Assigned for all purposes to:
Hon. Robert D. Broadbelt III

**DEFENDANTS' REPLY IN SUPPORT OF
ANTI-SLAPP MOTION TO STRIKE**

Date: January 17, 2025
Time: 10:00 a.m.
Dept.: 53

Date Action Filed: July 10, 2024

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1 **I. INTRODUCTION**

2 Having filed a Complaint that relied extensively on speech, including campaign statements of
3 elected officials, and having failed to identify any final administrative act subject to judicial review,
4 Plaintiffs now argue that all of their allegations based on protected speech are merely supportive of other
5 claims. But Plaintiffs’ efforts to run away from their own allegations fail. Plaintiffs cannot avoid the
6 consequences of their Complaint by suggesting that the Court ignore the pervasive, chilling allegations
7 regarding speech. Equally obvious, the *timing* of Plaintiffs’ suit confirms the propriety and necessity of
8 this Special Motion to Strike: rather than await the outcome of the ongoing administrative proceedings
9 before the California Coastal Commission and City departments, Plaintiffs prematurely filed suit to quell
10 further speech, including any speech or vote challenging the Proposed Project.

11 **II. LEGAL ARGUMENT**

12 **A. Plaintiffs Failed to Show the Action Qualifies for the “Public Interest” Exemption**

13 Plaintiffs failed to prove this action qualifies for the “public interest” exemption under Code of
14 Civil Procedure (“CCP”) Section 425.17(b). The applicability of this exemption is determined by
15 examining the complaint, including “the nature of the allegations and scope of relief sought in the
16 prayer.” (*Tourgeman v. Nelson & Kennard* (2014) 222 Cal.App.4th 1447, 1466 [citation omitted].) “As
17 an exception, it is to be narrowly interpreted, lest it swallow the rule found in the anti-SLAPP statute.”
18 (*Club Members for an Honest Election v. Sierra Club* (2008) 45 Cal.4th 309, 319 [citation omitted]; see
19 also *Simpson Strong-Tie Co. v. Gore* (2010) 49 Cal.4th 12, 22; *Sandlin v. McLaughlin* (2020) 50
20 Cal.App.5th 805, 818.) Plaintiffs bear the burden to prove this narrow exemption applies. (*Simpson*
21 *Strong-Tie Co.*, 49 Cal.4th at 26; *Sandlin*, 50 Cal.App.5th at 818.) Plaintiffs must prove “the entire
22 action” (not just a part of it) qualifies for this narrow exemption. (*Club Members*, 45 Cal.4th at 320.)
23 Plaintiffs failed to satisfy their burden.

24 It appears *no case* challenging a city’s project review and permitting process has ever qualified
25 for the “public interest” exception under Section 425.17. The absence of any supporting authority makes
26 sense because a specific project with a team of developers available to enforce any perceived breach—or
27 challenge any final administrative decision—is not a dispute “solely” in the public’s interest.

28 Lacking precedent, Plaintiffs cite cases decided under Section 1021.5 (*Kennedy Comm’n v. City*

1 of *Huntington Beach* (2023) 91 Cal.App.5th 436 and *Sokolow v. Cnty. of San Mateo* (1989) 213
2 Cal.App.3d 231) which are inapposite. As our Supreme Court explained, the statutes are “different in
3 significant ways” and “section 425.17(b) cannot simply be intended to parallel the private attorney
4 general statute”—e.g., “425.17(b) requires that an action be brought ‘solely in the public interest,’ and
5 cannot seek ‘any’ relief greater than or different from the relief sought for the general public. [citation]
6 Section 1021.5 does not contain these limitations.” (*Club Members*, 45 Cal.4th at 318.)

7 **1. The Action Was Not Brought “Solely” in the Public Interest**

8 Initially, only an action “brought *solely* in the public interest” qualifies for the exemption. (CCP
9 § 425.17(b).) The statute “bars a litigant seeking ‘any’ personal relief from relying on the section
10 425.17(b) exception.” (*Club Members*, 45 Cal.4th at 317.) Thus, where plaintiffs sought court orders that
11 would “give plaintiffs and their allies an advantage in intra-club politics,” the action was not exempt.
12 (*Id.* at 317.) Similarly in *Holbrook v. City of Santa Monica* (2006) 144 Cal.App.4th 1242, plaintiff city
13 council members’ request for an injunction compelling the City Council to end meetings by 11 p.m. and
14 alleging Constitutional violations and Brown Act violations was not “solely” in the public interest,
15 because plaintiffs had a preference for particular working hours. (144 Cal.App.4th at 1249-50.)

16 The most on-point case is *Cruz v. City of Culver City* (2016) 2 Cal.App.5th 239. In *Cruz*, city
17 residents sought only a declaration that the City Council’s conduct of a meeting discussing city parking
18 restrictions violated the Brown Act open meeting laws, and alleged they would receive no greater relief
19 than the public. (*Id.* at 249.) However, plaintiffs’ alleged status as homeowners gave them an individual
20 stake in the meeting’s outcome—thus the action did not qualify for the “public interest” exemption. (*Id.*
21 at 250.) (Compare *Tourgeman*, 222 Cal.App.4th at 1461 [action brought solely in the public interest
22 where it was “unlikely [plaintiff] would have benefitted from the requested injunction”].)

23 Here, Plaintiff Coates alleges she and her partner are chronically homeless and “would gladly
24 live in supportive housing at Venice Dell” (Complaint, ¶16) “and would move into Venice Dell if given
25 the opportunity.” (*Id.* at ¶129.) Coates’ alleged status as an unhoused person who wants to live with her
26 partner in the Proposed Project (if built) gives her an individual stake in the outcome of this action,
27 which seeks an injunction requiring the City to “take all affirmative steps to allow Venice Dell to be
28 constructed, operated, and maintained as permanent supportive and affordable housing” (*Id.* at

1 42:22-24.) As in *Cruz*, Coates plainly alleges an individual stake in the relief requested in this action that
2 is personal to her, and different than the relief sought on behalf of the general public.

3 Other Plaintiffs also seek personal relief. LA Forward is a political supporter of the Proposed
4 Project and has campaigned for it, including via “constituent meetings,” “a press conference” and many
5 other political actions. (Compl., ¶13; Levitus Decl., ¶¶3-5.) LA Forward alleges it “devoted significant
6 time and resources” to support the Proposed Project, and the City’s obstruction is “divert[ing] its finite
7 resources[.]” (Compl., ¶14; Levitus Decl., ¶¶5-6.) Plaintiff Aroth is also a “longtime” political supporter
8 of the Proposed Project. (Aroth Decl., ¶3.) Plaintiffs thus seek (1) to gain an advantage in their political
9 support of the Proposed Project and to defeat their political opponents; and (2) to recapture LA
10 Forward’s allegedly-diverted “time and resources.” (See, e.g., *Sandlin*, 50 Cal.App.5th at 823 & fn.5
11 [“the record suggests Petitioner also had a personal stake in the outcome of the litigation and, relatedly,
12 the upcoming election” where petitioner was a political supporter of a ballot measure that was opposed
13 by election candidates].) As such, Plaintiffs did not bring the action “solely” in the public interest.

14 Finally, the fact that the developers of the Proposed Project could sue (once the City takes a final
15 administrative action) highlights that this is not a public interest lawsuit. This suit essentially seeks to
16 enforce the DDA with the developers, and Plaintiffs’ declarations emphasize this. (See, e.g., Loop Decl.,
17 ¶¶18-34.) Plaintiffs are acting as the developers’ proxies;¹ property developers charge millions of dollars
18 in order to pay their employees and leadership, among other things. Plaintiffs submit no evidence that
19 the developers are not willing to file suit themselves (and even suggest they *will* sue—see Loop Decl.,
20 ¶31), and do not even mention why the developers have not yet filed suit in their own name.

21 **2. Plaintiffs Do Not Satisfy the Three Conditions to the Exemption**

22 Plaintiffs also failed to establish that they satisfy all three conditions of the “public interest”
23 exemption. First, for the same reasons set forth above, Plaintiffs fail to satisfy the first condition
24 requiring them to show that they do “not seek any relief greater than or different from the relief sought
25 for the general public[.]” (CCP § 425.17(b)(1).) Second, Plaintiffs also fail to show the action “would
26 enforce an important right affecting the public interest, and would confer a significant benefit ... on the
27

28 ¹ Plaintiff Aroth admits she was a board member of one of the two developers, and evasively claims that she no longer has a “*formal* affiliation” with the developer. (Aroth Decl., ¶6 [emphasis added].)

1 general public or a large class of persons.” (CCP § 425.17(b)(2).) Plaintiffs seek declaratory and
2 injunctive relief requiring a single building to be built. (Compl. at 42:8-43:13.) They allege the Proposed
3 Project would provide “136 [supportive and low-income housing] units.” (*Id.*, ¶100.) Plaintiffs fail to
4 show that “the general public or a large class of persons” would receive a “significant benefit” from this
5 modest number of housing units. Third, Plaintiffs fail to show “[p]rivate enforcement is necessary and
6 places a disproportionate financial burden on the plaintiff” (CCP § 425.17(b)(3).) There is nothing to
7 “enforce” at this time, because Plaintiffs prematurely filed the action. It is undisputed that the City has
8 not taken any final administrative action. (See generally, Complaint.) Given the City’s still-ongoing
9 review and processing of approvals for the Proposed Project, this action is unripe and there are no
10 grounds for any enforcement at all, let alone a showing that “private enforcement is necessary.”

11 **3. The Exemption Is Inapplicable as the Action Is Based on “Political Works”**

12 Finally, Plaintiffs’ argument is also defeated by the statutory exception to the exemption. The
13 “public interest” exemption does *not* apply to any action “based upon the ... dissemination ... or similar
14 promotion of any ... political ... work[.]” (CCP § 425.17(d)(2).) “Political works” include the creation
15 or distribution of political statements in an election campaign. *Major v. Silna* (2005) 134 Cal.App.4th
16 1485, held that an action concerning writings supporting candidates for city council was exempt from
17 the “public interest” exception. (*Id.* at 1494-95.) As *Major* explained, campaign speech “is ‘the
18 quintessential subject’ of constitutional free speech rights.” (*Id.* at 1495-96.) Similarly, in *Sandlin*, the
19 Court held a defendant’s “creation and submission of candidate statements, which are by definition
20 political writings, plainly fall within this exception [under CCP § 425.17(d)(2)].” (50 Cal.App.5th at
21 824; see also *Exline v. Gillmor* (2021) 67 Cal.App.5th 129, 142-43 [mayor’s financial holding disclosure
22 form was “political work” and thus “public interest” exemption was inapplicable].)

23 The Complaint heavily relies on campaign speech, including a Councilmember’s “campaign
24 forum” statements (Compl., ¶62), a campaign video, and statements to news reporters. (*Id.*, ¶63.) It
25 further relies on the City Attorney’s campaign speech, e.g., “public comment before the City Council’s
26 Homelessness and Poverty Committee[.]” (*Id.*, ¶64.) Based on the political speech, Plaintiffs argue that
27 the City is delaying the Proposed Project “to fulfill their campaign promises to ‘squash’ Venice Dell.”
28 (*Id.*, ¶90.) Accordingly, as in *Major*, *Sandlin*, and *Exline*, the action is based on campaign statements

1 that are “political works” as a matter of law, and the “public interest” exemption is inapplicable.

2 **B. The Complaint Arises From Protected Speech and Conduct**

3 As explained in more detail in the City’s Motion MPA (at 8:17-9:18 & 11:6-14:14), Plaintiffs’
4 Complaint explicitly arises from protected speech and conduct. Crucially, Plaintiffs *did not allege the*
5 *City denied any approval for the Proposed Project* for a discriminatory reason. It is undisputed that
6 there has been no final administrative action; the City is still reviewing and processing approvals for the
7 Proposed Project. Cases cited by Plaintiffs regarding “evidence” of discriminatory acts thus are
8 distinguishable because they each addressed a final discriminatory action that *followed* the speech—
9 which is not true here. (See, e.g., *Park v. Bd. of Trustees of California State Univ.* (2017) 2 Cal.5th
10 1057, 1061 [plaintiff’s tenure application was denied]; *DFEH v. 1105 Alta Loma Rd. Apartments, LLC*
11 (2007) 154 Cal.App.4th 1273, 1280 [defendant did not accommodate disability; plaintiff evicted]; *San*
12 *Ramon Valley Fire Prot. Dist. v. Contra Costa Cnty. Employees’ Ret. Assn.* (2004) 125 Cal.App.4th 343,
13 355 [board adopted resolution requiring employer retirement contributions].)

14 Here, Plaintiffs’ lawsuit does not arise from discriminatory action *following* speech, because it is
15 undisputed that the City has not yet acted. Instead, Plaintiffs allege the City’s protected speech/activity
16 *itself* slowed review by the City and Coastal Commission. For example, they allege the City Attorney
17 “**told** the Coastal Commission that she had significant concerns about ... the Project’s pending Coastal
18 Development Permit and Land Use Plan amendment” (Compl., ¶79) and thereby “*interfered* with the
19 California Coastal Commission’s ... review of the Project[.]” (*Id.* at ¶78; see also Dennison Decl., ¶¶27,
20 31-32.) This speech by the City is thus a purported “liability-creating activity” Plaintiffs rely on as an
21 element of their discrimination claims. (*Park*, 2 Cal.4th at 1064.) As in *Tuchscher*, they allege the City’s
22 communications with a third party directly “interfered” with development efforts. (*Tuchscher Dev.*
23 *Enterprises, Inc. v. San Diego Unified Port Dist.* (2003) 106 Cal.App.4th 1219, 1228, 1232-35; see also
24 *Rand Res., LLC v. City of Carson* (2019) 6 Cal.5th 610, 629.)

25 Plaintiffs also explicitly base their claims on election campaigning (Compl., ¶¶62-64) and allege
26 that City officials are “fulfill[ing] their campaign promises to ‘squash’ Venice Dell” (*id.*, ¶90.); e.g., by
27 allegedly *telling* city staff “to refer any of the Developers’ inquiries regarding the Project” to the City
28 Attorney’s Office (*id.*, ¶95; see also Dennison Decl., ¶17). Put simply, without the protected

1 speech/activity alleged in the Complaint, Plaintiffs cannot establish the elements of their claims because
2 they did not allege any discriminatory “act” outside such Constitutionally-protected speech and/or
3 activity (e.g., denial of a building permit, or adoption of a City ordinance). Further, the injunctive relief
4 the Complaint seeks (Compl. at 42:22-24) implicates the anti-SLAPP statute; seeking to compel City
5 officials to vote in favor of—or refrain from criticizing—the Proposed Project also violates speech
6 protections. (*Beeman v. Anthem Prescription Mgmt., LLC* (2013) 58 Cal.4th 329, 342; *Gerawan*
7 *Farming, Inc. v. Lyons* (2000) 24 Cal.4th 468, 491.) The City established in its MPA that the Complaint
8 implicates all four protected categories under the anti-SLAPP statute. (CCP § 425.16(e)(1)-(4).)

9 **C. Plaintiffs Failed To Establish a Probability of Prevailing on the Merits**

10 **1. Plaintiffs Failed to Establish This Action Is Ripe, or That It Would Not**
11 **Violate the Separation of Powers Doctrine**

12 Initially, Plaintiffs failed to establish a “basic prerequisite to judicial review”—i.e., “the
13 existence of a ripe controversy.” (*Pac. Legal Found. v. California Coastal Com.* (1982) 33 Cal.3d 158,
14 169.) As to the first prong of the ripeness test—fitness for judicial decision— the City’s review and
15 approval process has progressed but there has been no final administrative action. The California
16 Coastal Commission’s recent *conditional* approval of proposed amendments to the Venice Land Use
17 Program included changes that require City Council review, with any changes subject to further
18 Commission review. (Supp. RJN, Ex. 17; Plfs.’ RJN, Ex. 3.) It is impossible to predict future obstacles
19 that may arise: “projects are very complicated, and there’s a million things that usually come up in
20 closing.” (Supp. Scott Decl., Ex. D at 59:3-60:8.) This dispute has not “*sufficiently congealed* to permit
21 an intelligent and useful decision to be made.” (*Pac. Legal Found.*, 33 Cal.3d at 171 [emphasis added].)

22 Consequently, Plaintiffs seek an impossibly vague injunction ordering the City to “take all”
23 future “steps to allow Venice Dell to be constructed, operated, and maintained[.]” (Compl. at 42:22-23.)
24 Plaintiffs did not and cannot specify what those steps might be, and the Court cannot order such relief.
25 For example, the Proposed Project currently cannot be built due to its funding shortfall of over \$90
26 million (Supp. Scott Dec., Ex. D at 57:12-14), and the City cannot be ordered to budget for and supply
27 the funds to “construct, operate, and maintain” the Proposed Project. Likewise, the Court cannot order
28 the City Council to vote to in favor of matters that still require approval—e.g., the to-be-drafted ground

1 lease that will need City Council approval (and has not yet been drafted because the Proposed Project is
2 not yet funded). (Supp. Scott Decl., Ex. D at 168:6-8, 169:20-170:2, 171:2-8.) Such premature judicial
3 involvement would plainly violate the separation of powers between executive and judicial functions.
4 (*Carmel Valley Fire Prot. Dist. v. State of California* (2001) 25 Cal.4th 287, 299 [power to direct public
5 funds vested in legislative branch]; *City of Sacramento v. California State Legislature* (1986) 187
6 Cal.App.3d 393, 397-99 [same].) Courts also may not compel a legislative or administrative body to act
7 (or not to act). (See, e.g., *Serrano v. Priest* (1976) 18 Cal.3d 728, 751; *Sklar v. Franchise Tax Bd.* (1986)
8 185 Cal.App.3d 616, 618; *City Council v. Superior Court* (1960) 179 Cal.App.2d 389, 394-95.) Nor can
9 declaratory relief tell a legislative or administrative body how it should act. (*City of Santa Rosa v. Press*
10 *Democrat* (1986) 187 Cal.App.3d 1315, 1322-24; CCP § 1094.5(f).) Court orders must be “directed
11 toward the right to undo what the legislative or quasi legislative body has done, not toward directing it to
12 perform an act which is prospective in operation.” (*City Council*, 179 Cal.App.2d at p. 394; see also Civ.
13 Code § 3423(f)-(g).) Plaintiffs fail to refute these authorities; their citation to *Marine Forests Soc’y v.*
14 *California Coastal Com.* (2005) 36 Cal.4th 1 does not assist them because it is not on point.

15 **2. Plaintiffs Failed to Establish Standing for Their Claims**

16 Plaintiffs also bear the burden to establish standing for every claim. (*Saterbak v. JPMorgan*
17 *Chase Bank, N.A.* (2016) 245 Cal.App.4th 808, 813-14.) Initially, Plaintiffs cannot escape their own
18 prayer seeking to enforce a DDA to which to which they are not parties. (Compl., 42:22-24 [seeking an
19 injunctive order for relief “*as set forth in the DDA*” (emphasis added)].) Plaintiffs admit they lack
20 standing to seek any relief under the DDA. As to the First Cause of Action (“COA”) alleged by
21 Plaintiffs Coates and LA Forward, Plaintiffs offer *no evidence at all of Coates’ standing for the First*
22 *COA*, and her claim thus fails. Plaintiffs argue LA Forward has “organizational standing” but cite no
23 supporting authority. Plaintiffs also ignore a fatal defect: standing for a FEHA claim requires that factors
24 other than alleged discrimination—like lack of funding—not stand in the way of the desired housing
25 construction. Among other things, this Proposed Project cannot be built because its developers lack over
26 \$90 million needed to fund its construction. (Supp. Scott Dec., Ex. D at 57:12-14.) Plaintiffs thus failed
27 to show that “absent the [alleged discriminatory] practices, there is a substantial probability that they
28 would have been able to [obtain the desired housing] and that, if the court affords the relief requested,

1 the asserted inability of petitioners will be removed.” (*Warth v. Seldin* (1975) 422 U.S. 490, 504; see
2 also *Jaimes v. Toledo Metro. Hous. Auth.* (6th Cir. 1985) 758 F.2d 1086, 1096 [**no standing where “it**
3 **is still a matter of speculation and conjecture as to whether these third party, non-defendant**
4 **[entities] would grant approval** for construction of units that plaintiffs could afford, qualify for, or be
5 eligible to obtain.”].) At this stage, whether the State reverses its earlier decision and provides funding is
6 sheer conjecture. Plaintiffs fail to show the Proposed Project would likely be built “but for” the alleged
7 discrimination, and thus failed to establish standing.

8 Plaintiffs Coates, Aroth and Williams all lack standing as “taxpayers” under CCP section 526a.
9 Initially, Plaintiffs fail to allege or offer evidence that they seek to avoid “waste” or misuse of public
10 funds as required by the statute. Further, they offer no credible evidence they actually paid a qualifying
11 tax. (See *San Diegans for Open Gov’t v. Fonseca* (2021) 64 Cal.App.5th 426, 437 (no standing where
12 alleged taxpayer did not “offer any details” and “did not offer any receipt or other document to support
13 [the] testimony ... regarding [plaintiff]’s alleged payment of taxes.”). Accordingly, the Second, Third,
14 Fourth, Fifth, and Sixth COAs—all brought under CCP section 526a—should be stricken.

15 **3. Defendants’ Speech Is Absolutely Privileged**

16 Plaintiffs do not dispute that City officials’ speech is privileged under Civil Code section 47. As
17 explained, Plaintiffs’ claims arise from such speech—and they are therefore barred.

18 **4. Plaintiffs Fail to State a Valid Claim Due to Misjoinder / Nonjoinder**

19 Plaintiffs fail to show the City Council and City departments are proper defendants. They offer
20 no evidence that these are legal entities amenable to suit. The two cases they cite (Opp. at 20:15-16) do
21 not support Plaintiffs as those courts were not asked to—and did not—rule on this issue. Plaintiffs also
22 failed to join necessary and indispensable parties: e.g., the Complaint explicitly seeks to enforce the
23 developers’ DDA (Compl., 42:22-24), and the developers’ cooperation is essential to the relief Plaintiffs
24 seek. Without the developers, Defendants face a risk of duplicative actions and inconsistent obligations
25 if the developers file suit (see Loop Decl., ¶31), and complete relief cannot be accorded in their absence.

26 **5. Plaintiffs Failed To Make a Prima Facie Showing on Every Claim Element**

27 Plaintiffs also failed to make a prima facie showing on claims of alleged “discrimination” (First
28 – Fifth COAs), as they lack evidence of a City practice with discriminatory intent or effect. Plaintiffs

1 show no such “practice”—to the contrary, they admit the City has advanced low-income and supportive
2 housing. Since January 2016, one of the two developers of the Proposed Project has moved forward with
3 five new affordable and supportive housing projects in the City, four of which are in Venice (Dennison
4 Decl., ¶3), and it opened two such projects in 2022 and 2024 (*id.*, ¶6). Plaintiffs submit no evidence that
5 any low-income housing development—either the Proposed Project, or others—has failed due to City
6 “discrimination.” Nor did they submit any evidence that the Proposed Project was treated differently
7 than other similarly-situated projects on the basis of race or any other protected characteristic.

8 Plaintiffs’ conspiracy theories about back-room discriminatory delays fail on the evidence. They
9 claimed the City delayed just four items: (1) the Ellis Act application; (2) a public parking contract; (3)
10 the California Coastal Commission process; and (4) a ground lease. (Compl., ¶¶75-83.)

11 First, the evidence shows the Ellis Act application would have required premature eviction of
12 tenants for a project that “didn’t have the basic level of financing” (i.e., \$90 million shortfall). (Supp.
13 Scott Decl., Ex. D at 124:18-19; City RJN, Ex. 3 at 1.) Second, the developers’ proposed changes for a
14 parking garage were the subject of an extensive staff report and consideration by the Board of
15 Transportation Commissioners (“BOTC”), which recently voted to determine the feasibility of a more
16 suitable lot. (Supp. Scott Decl., ¶4; Supp. RJN, Exs. 15-16.) BOTC approval is necessary. (City’s RJN,
17 Ex. 13 at § 22.484(g)(2)(A)(7); Supp. Scott Decl., Ex. C at 153:3-154:12.)

18 Third, Plaintiffs failed to rebut the evidence that the Coastal Commission’s delayed review
19 process was caused by the *developers’* failure to timely respond to the Commission’s repeated
20 deficiency notices and requests for further information and/or changes to the development plans. (City
21 RJN, Exs. 3-7; Supp. Scott Decl., Ex. C at 40:15-41:21, 43:5-12.) Nor did the City nefariously withdraw
22 the City’s separate LUP Application—the evidence is undisputed that it was the *Coastal Commission*
23 who “requested via email that the City withdraw and resubmit the project-specific LUP amendment
24 application” and the City merely responded to that recommendation. (City RJN, Ex. 8 at 1 & Ex. 9 at 1.)
25 Plaintiffs have not shown the City did anything wrong, as it merely complied with its duties to taxpayers
26 by thoroughly reviewing the Proposed Project and by publicly addressing related concerns. The City
27 also consistently worked to process the City’s LUP amendment application. (Supp. Scott Decl., Ex. C at
28 57:25-60:5.) It is not unusual for the City Attorney’s Office and a Council District’s office to be

1 involved with Coastal Commission review of development projects. (*Id.* at 103:3-104:2, 178:5-17.)
2 Finally, Plaintiffs’ assertion that the Coastal Commission has now issued its final approvals for the
3 Proposed Project is a deceptive oversimplification—the December 2024 approvals are explicitly
4 “conditional” and will now require *yet more changes* before the Proposed Project moves forward. (Supp.
5 RJN, Ex. 17; Plfs.’ RJN, Ex. 3.) It is “very common” for project redesigns to occur within the realm of
6 coastal development permits, even after a permit is approved by the City. (Supp. Scott Decl., Ex. C at
7 123:19-124:2, 146:15-22.)

8 Fourth, the uncontroverted evidence is that the ground lease was delayed by the developers’ \$90
9 million funding shortfall, as the City’s standard process is that it does not begin preparing a ground lease
10 until a project is funded. (Supp. Scott Decl., Ex. D at 58:15-17, 168:6-8, 169:14-170:2.) Even then, the
11 ground lease must still be approved by the City Council. (*Id.*, 171:2-8; City RJN, Ex. 11.) There has not
12 yet been such an approval, further demonstrating unripeness.

13 Plaintiffs also failed to show improper delegation of legislative power to a Councilmember or
14 City Attorney (Sixth COA). They offered no evidence that these individuals actually usurped any City
15 Council vote. Nor can Plaintiffs switch tactics and argue instead that legislative power was improperly
16 delegated to the BOTC (Opp. at 18:16-20) because *their Complaint contains no such allegation*. The
17 Complaint could not allege any claim based on the BOTC’s December 2024 vote because the vote
18 occurred *after* they filed this action in July 2024. This further highlights the ripeness problem. Plaintiffs
19 have not attempted to supplement their allegations and, in any case, the defect in a complaint filed
20 before a claim exists “cannot be cured by a supplemental complaint addressing matters that occurred
21 after the original pleading was filed.” (*Foster v. Sexton* (2021) 61 Cal.App.5th 998, 1032.)

22 Finally, Plaintiffs failed to establish taxpayer claims for “waste” under CCP section 526a
23 (Second – Sixth COAs), as they offered no argument or evidence that the City’s project review process
24 provides “no public benefit.” (*Sundance v. Mun. Ct.* (1986) 42 Cal.3d 1101, 1139.)

25 **III. CONCLUSION**

26 Accordingly, the City respectfully requests that the Court strike the Complaint as a whole or,
27 alternatively, strike those claims and portions of the Complaint that arise from protected activity.
28

1 Dated: January 10, 2025

NOSSAMAN LLP
PATRICK J. RICHARD
ILSE C. SCOTT
PAOLO A. HERMOSO

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5 By: /s/ Patrick J. Richard
Patrick J. Richard

6 Attorneys for Defendant City of Los Angeles, including its
7 component parts erroneously named as Defendants Los
8 Angeles City Council; Los Angeles Housing Department;
9 and Los Angeles Department of Transportation
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1 **PROOF OF SERVICE**

2 The undersigned declares:

3 I am employed in the County of San Francisco, State of California. I am over the age of 18 and
4 am not a party to the within action; my business address is c/o Nossaman LLP, 50 California Street, 34th
5 Floor, San Francisco, CA 94111.

6 On January 10, 2025, I served the foregoing **DEFENDANTS' REPLY IN SUPPORT OF**
7 **ANTI-SLAPP MOTION TO STRIKE** on parties to the within action as follows:

8 (By U.S. Mail) On the same date, at my said place of business, Copy enclosed in a sealed
9 envelope, addressed as shown on the attached service list was placed for collection and mailing
10 following the usual business practice of my said employer. I am readily familiar with my said
11 employer's business practice for collection and processing of correspondence for mailing with
12 the United States Postal Service, and, pursuant to that practice, the correspondence would be
13 deposited with the United States Postal Service, with postage thereon fully prepaid, on the same
14 date at San Francisco, California.

15 (By Overnight Service) I served a true and correct copy by overnight delivery service for
16 delivery on the next business day. Each copy was enclosed in an envelope or package
17 designated by the express service carrier; deposited in a facility regularly maintained by the
18 express service carrier or delivered to a courier or driver authorized to receive documents on its
19 behalf; with delivery fees paid or provided for; addressed as shown on the accompanying service
20 list.

21 (By Electronic Service) Pursuant to California Rules of Court, rules 2.251, from service email
22 address: alevintow@nossaman.com, by emailing true and correct copies to the persons at the
23 electronic notification address(es) shown on the accompanying service list.

24 (By Electronic Service) Pursuant to California Rules of Court, rules 2.251, by submitting an
25 electronic version of the document(s) to a court-approved third-party e-filing vendor, I caused
26 the document(s) to be e-served to the person(s) listed on the attached service list.

27 (By Electronic Service) Pursuant to California Rules of Court, rules 2.251(a)(2) and 2.251(a)(3),
28 by submitting an electronic version of the document(s) to One Legal, through the user interface
at www.onelegal.com, I caused the document(s) to be sent to the person(s) listed on the attached
service list.

Executed on January 10, 2025.

(STATE) I declare under penalty of perjury under the laws of the State of California that the
foregoing is true and correct.

/s/ Anthony Levintow
Anthony Levintow

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